

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION**

Mikell McCall

Case No. 1:17-cv-01678

Petitioner,

v.

ORDER

Mark Hooks

Defendant.

This is a state prisoner habeas case under 28 U.S.C. § 2244. (Doc. 1-1). Following referral to Hon. William H. Baughman, United States Magistrate Judge, and the filing of his Report & Recommendation that the petition be dismissed (Doc. 17), the petitioner has filed timely objections. (Doc. 18). The Ohio Attorney General has not responded to the petitioner's objections, but rests on his response to the order to show cause. (Doc. 12).

On *de novo* review, I find the Magistrate Judge's Report & Recommendation well taken. Accordingly, I adopt it as the order of this Court, and dismiss the petition. There plainly being no merit to the petitioner's objections, I decline to issue a Certificate of Appealability.

Discussion

The petitioner raises three three grounds for relief: 1) denial of the right to a speedy trial; 2) denial of the right to face his accusers; and 3) ineffective assistance of counsel on direct appeal.

The Magistrate Judge correctly determined that the petitioner had failed to raise the first two grounds on direct appeal or otherwise present them appropriately to the Ohio courts. He

correctly found that the petitioner's procedural default barred consideration of those grounds in this court.

That failure to include his current contentions about a speedy trial and confrontation led to the petitioner's third ground here. As to that ground, the Magistrate Judge also correctly found that that ground – ineffective assistance of appellate counsel - likewise not properly before this Court. This was so, he concluded, because petitioner has never raised that claim in the courts of Ohio.

All the Magistrate Judge's findings and rulings are in complete accord with prevailing habeas doctrine as he cogently set forth that doctrine.

That being so, it is hereby

ORDERED THAT:

1. Petitioner's objections (Doc.18) be, and the same hereby are overruled;
2. The Magistrate Judge's Report & Recommendation (Doc.17) be, and the same hereby is adopted as the order of this Court; and
3. The petition for a writ of habeas corpus (Doc. 1-1) be, and the same hereby is denied and dismissed with prejudice.

Jurists of reason could not rationally disagree with this decision or the rationale thereof, or that of the Magistrate Judge. I therefor decline to issue a Certificate of Appealability.

So ordered.

/s/ James G. Carr
Sr. U.S. District Judge